HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 4127 of 2001 (S/S)

Surendra Mohan

Vs.

State Bank of India & others.

Approved of reporting

~~Not approved for reporting~~

Date of decision 8.7.2004.

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 4127 of 2001

Surendra Mohan ..... Petitioner

Versus

State Bank of India & others .....Respondents

Sri Piyush Shukla, Advocate for the petitioner
Sri S.K. Jain, Advocate for the respondents.

Dated: July 8, 2004

Hon. Rajesh Tandon J.

Heard the learned counsel for the parties.

This writ petition has been filed for the issue of a writ in the nature of certiorari for quashing the orders dated 11.4.2001, 14.6.2001 and 10.7.2001, annexure 4, 8 and 10 to the writ petition.

Briefly stated the facts giving rise to the present writ petition are that petitioner is a disabled persons and ex serviceman. He served Armed forces for about 21 years. After retirement from the Armed Forces he joined the Bank service on 17.3.1983 at the age of 39 years and continuously worked for 18 years in the Bank. The Central Board of Directors in its meeting on 27.12.2000 approved SBI Voluntary Retirement Scheme for the employees of the Bank. The petitioner has completed 18 years service in the Bank and has also completed

40 years of age as on 31st December 2000, therefore, he applied for SBI VRS. On 23rd March 2001 the respondent no.4 Chief Manager informed the petitioner that the application of the petitioner for retirement under the SBI VRS has been accepted and the petitioner has retired on 31.3.2001. On 11th April 2001 respondent no.2 in informed the petitioner that he is not eligible for the pension because the service period of the petitioner is less than 20 years. The petitioner has stated that he has moved a representation to the respondent for exempting him for the qualifying period of service as he is an Ex Army personnel but the respondents rejected his representation.

The respondents contested the writ petition and have filed counter affidavit. The respondents have stated that under the provisions of Rule 22 (I)(a) of State Bank of India Employees Fund a member shall be entitled to a pension under these rules on retiring from the Bank's services after having completed twenty years of pension-able service provided that he has attained the age of fifty years of if he is in the service of the Bank on or after 1.11.1993 after having completed ten years of pensionable service provided that he is has attained the age of fifty eight years. The respondents have contended that the petitioner is not entitled to pension in view of the above.

It is not disputed that the petitioner is an Ex serviceman and joined the services of the Bank on 17.3.1983. It is also not disputed that the Board of Directors of the Bank adopted SBI VRS and the petitioner has applied for voluntary retirement under the said scheme which has been accepted by the respondents and the petitioner took retirement on 31.3.2001. The petitioner has also stated that on the date of retirement he

has not completed 20 years of pensionalbe service with the State Bank of India.

Column 6 of SBI Voluntary Retirement Scheme (SBIVRS) provides the following other benefits:

a. *Gratuity as payable under the extant instructions on the relevant date.*
b. *Provident Fund contribution as per State Bank of India Employees' Provident Fund Rules as on relevant date.*
c. *Pension in terms of State Bank of India Employees' Pension Fund Rules on the relevant date (including commuted value of pension)*

Thus from above provisions it is clear that the employee who takes retirement under SBIVRS will be paid pension according to the State Bank of India Employees' Pension Fund Rules. Amended Rule 22 (i) of State Bank of India Employees' Pension Fund Rules provides as under:

> *(i) A member shall be entitled to pension under these rules on retiring from the Bank's service.*
>
> *(a) After having completed twenty years pensionable service provided that he has attained the age of fifty years or if he is in the service of the Bank on or after 1.11.1993 after having completed ten years pensionalbe service provided that he has attained the age of fifty eight years.*

The petitioner has joined the service of the Bank on 17.3.1983 and thus he is not entitled to get pension before completing 20 years of service.

In a similar case in Writ Petition No. 360 (S/B) of 2002 Smt. Manjula Pujari vs. State Bank of India & others, a Division Bench of this Court has held as under:

"According to the State Bank of India Employees Pension Fund Rules all such employees who had not completed 20 years of pensionabble service as provided under Employees Pension Fund Rules are not entitled for getting pension under SBIVRS. ********** ********** **********

Since the petitioner was not entitled to get the leave encashment and the pension as per State Bank of India Pension Fund Rules the respondent bank has rightly asked the petitioner to refund the aforesaid amount, which has been paid to her by mistake of the bank.

For the reasons mentioned above, the writ petition lacks merit and is dismissed accordingly No order as to the costs."

The petitioner has not completed 20 years of pensionable service on the date when he took voluntary retirement under SBIVRS and as such he is not entitled to get pensionary benefits under State Bank of India Employee Pension Fund Rules.

Consequently the writ petition lacks merit, and is hereby dismissed. No. order as to costs.

(Rajesh Tandon J.)

July 8, 2004

*Dhyani